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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/173,858	10/16/1998	BART ALAN MELTZER	19957.701	4734

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EXAMINER

HUYNH, CONG LAC T

ART UNIT	PAPER NUMBER
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2178

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Applicati n No.

09/173,858

Applicant(s)

MELTZER ET AL.

Examiner

Cong-Lac Huynh

Art Unit

2178

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-16, 61-72.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


HEATHER R. HERNDON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments are not persuasive. Regarding the 101 rejection, Applicants argue that by applying Lowry's case, the data as claimed in claim 1 is functional. According to Applicants, the data structure in Lowry is functional since it defines data relationships among other data objects. The claimed interface specifications in claim 1, according to Applicants, contain both information used by the application programs and information regarding their physical interrelationships within a memory. Claim 1 dictates how application programs manage information. The claim, therefore, define functional characteristics of the memory (Remarks, pages 3-4).

Examiner disagrees.

As quoted by Applicants, the court In re Lowry described:

"Lowry's ADOs do not merely underlying data in a database. ADOs contain BOTH information used by application programs AND information regarding their physical interrelationships within the memory. Lowry's claims dictate how application programs manage information. Thus, Lowry's claims define functional characteristics of the memory....the claims require specific electronic structural elements which impart a physical organization on the information stored in memory. Lowry's invention manages information. As Lowry notes, the data structures provide increased computing efficiency" (Remarks, pages 3-4).

As seen in said quoted passage of In re Lowry, the data of ADOs should contain BOTH information used by application programs AND information regarding the physical interrelationships of the ADOs within the memory to be functional.

The machine readable specification in claim 1 includes ONLY the definitions of the input documents and the output documents comprising respective descriptions of set of storage units and logical structures for the set of storage units. Said definitions and descriptions are merely the information regarding the physical interrelationships of the data within the memory.

The application programs, which can access the data stored in the memory to carry out the transaction process, are not claimed.

The specification as in claim 1, therefore, is not functional.

Regarding 112 rejections, claim 1 is rejected under 112, second paragraph for being indefinite.

As seen in In re Lowry, claim 1 of Lowry refers to the memory. The limitations of claim 1, at least, describe what is included in the memory that relates to the memory.

Claim 1 of the invention refers to an interface for transactions among nodes in a network which execute processes involved in the transactions. However, the limitations only provide the definitions of the input and output documents comprising the respective descriptions of set of storage units and logical structures for the set of storage units. One ordinary skill can not to see what process involved in the transactions related to the interface via the definitions of documents.

Regarding claim 61, the claim is rejected under 112, second paragraph as being indefinite.

The preamble of the claim introduces a method for programming a commercial transaction. However, the limitations of the claims only show defining the input documents and the output documents and providing interpretation information for the logical structures to the node. Via the definitions of the input and output documents, an ordinary skill can not see how the process of a commercial transaction works in said method.

Further, Applicants can not apply the invention case with Lowry's case on the fact that since Lowry did not include any method steps as part of his data structure in memory claim, the claims of the invention are not required to include the method steps. Lowry did not include any method steps in his memory claim since Lowry did not claim a method. Instead, Lowry claimed a memory.

Applicants, on the other hand, claim a method of programming a commercial transaction. Therefore, the limitations of claim 61 should include method steps to show how to program a commercial transaction.

The finality remains since the Examiner see nothing incorrect in the office action about the 101 issue of the claims relating the Lowry's case.

Also, in the phone dialog between the counsel and the Examiner on 1/29/03, the counsel informed that he already filed a RCE of the case on 1/28/03. Therefore, there is no further argument on withdrawing the finality.